

PUBLIC NOTICE
ORDINANCE NO. 1856, SERIES 2023

NOTICE IS HEREBY GIVEN that at a meeting of the City Council of the City of Louisville, Colorado, held on September 5, 2023 at the hour of 6:00 p.m., at the City Hall, 749 Main Street, Louisville, Colorado, the City Council held a Public Hearing on the passage and adoption of a proposed emergency Ordinance No. 1857, Series 2023.

AN EMERGENCY ORDINANCE FOR EXTENDING THE CITY'S THREE-EIGHTHS OF ONE PERCENT (0.375%) SALES TAX FOR PARKS AND OPEN SPACE PURPOSES FOR AN ADDITIONAL 10 YEAR PERIOD, IMPOSING AN ADDITIONAL ONE-EIGHTH OF ONE PERCENT (0.125%) SALES AND USE TAX FOR OPEN SPACE PURPOSES AS PROVIDED HEREIN; AND PROVIDING FOR THE SUBMISSION OF THE BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS AT A REGULAR ELECTION TO BE HELD NOVEMBER 7, 2023

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY TWO-THIRDS OF THE ENTIRE CITY COUNCIL, AND ORDERED PUBLISHED this 5th day of September, 2023.

Dennis Maloney, Mayor

ATTEST:
Meredyth Muth, City Clerk

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ORDINANCE NO. 1856
SERIES 2023

AN EMERGENCY ORDINANCE FOR EXTENDING THE CITY'S THREE-EIGHTHS OF ONE PERCENT (0.375%) SALES TAX FOR PARKS AND OPEN SPACE PURPOSES FOR AN ADDITIONAL 10 YEAR PERIOD, IMPOSING AN ADDITIONAL ONE-EIGHTH OF ONE PERCENT (0.125%) SALES AND USE TAX FOR OPEN SPACE PURPOSES AS PROVIDED HEREIN; AND PROVIDING FOR THE SUBMISSION OF THE BALLOT QUESTION TO A VOTE OF THE REGISTERED ELECTORS AT A REGULAR ELECTION TO BE HELD NOVEMBER 7, 2023

Section 1. The following ordinance of the City of Louisville, Colorado, is hereby adopted to read:

WHEREAS, the City of Louisville (the "City"), is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City Charter (the "City Charter"); and

WHEREAS, the members of the City Council of the City (the “City Council”) have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer’s Bill of Rights (“TABOR”), requires voter approval for any new tax, any increase in any tax rate, the creation of any debt, extension of an expiring tax, and the spending of certain funds above limits established by TABOR; and

WHEREAS, pursuant to Article 12 and Section 4-8 of the City Charter, the City may authorize the issuance of bonds, the imposition of new taxes and the increase of a tax rate by ordinance and upon approval of the registered electors of the City; and

WHEREAS, the City will hold a regular election on November 7, 2023, as a coordinated election pursuant to the Uniform Election Code of 1992, as amended; and

WHEREAS, TABOR requires that the City submit ballot issues, as defined in TABOR, to the City’s registered electors on specified election days before action can be taken on such ballot issues; and

WHEREAS, November 7, 2023, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the City pursuant to TABOR; and

WHEREAS, pursuant to Ordinance No. 1119, Series 1993, the City Council referred to the voters a TABOR ballot issue concerning imposition for a ten-year period of a temporary $\frac{3}{8}$ % sales and use tax increase for the acquisition of land in and around the City of Louisville for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks, and such ballot issue was approved by a majority of the City’s voters; and

WHEREAS, pursuant to Ordinance No. 1395, Series 2002, the City Council referred to the voters a TABOR ballot issue for the continuation of such sales and use tax for an additional ten-year period for the acquisition of land in and around the City of Louisville for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks; and for the development, construction, operation and maintenance of such open space zones, trails, wildlife habitats, wetlands and parks, and such ballot issue was approved by a majority of the City’s voters; and

WHEREAS, pursuant to Ordinance No. 1575, Series 2010, the City Council referred to the voters a TABOR ballot issue for the imposition of a permanent City use tax at a rate of 3.50% to supersede the City’s then-current use tax, with revenues from a $\frac{3}{8}$ % percent rate of use tax to be used exclusively for the purposes consistent with ballot issue 2D as stated in the recital above, and such ballot issue was approved by a majority of the City’s voters; and

WHEREAS, pursuant to Ordinance No. 1617, Series 2012, the City Council referred to the voters a TABOR ballot issue for the continuation of such sales tax for an

additional ten-year period for the acquisition of land in and around the City of Louisville for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks; and for the development, construction, operation and maintenance of such open space zones, trails, wildlife habitats, wetlands and parks, and such ballot issue was approved by a majority of the City's voters; and

WHEREAS, the temporary 0.375% sales tax will expire on December 31, 2023, unless it is continued by approval of the City's voters; and

WHEREAS, the City Council determined in Ordinance No. 1854, Series 2023, that it should refer to the voters at the November 7, 2023 election a TABOR ballot issue concerning continuation of the City's temporary sales tax with revenues to be evenly split between open space and parks and imposition of a new 0.125% sales tax for open space and parks; and

WHEREAS, upon further consideration, the City Council has determined the TABOR ballot issue for the new tax should include both sales and use taxes; and

WHEREAS, as was set forth in Ordinance No. 1854, the City Council confirms in this ordinance it has identified additional needs for open space acquisition, improvement, maintenance, and wildfire mitigation within open space areas, and is of the opinion that it should refer to the voters at the November 7, 2023 a TABOR ballot issue concerning an additional 0.125% sales and use tax solely dedicated to these purposes, with revenues derived from this sales and use tax to target the following areas identified as being priority needs of the City:

- The ability to obtain available land for Open Space designation and preservation including priority parcels as determined by the Open Space Advisory Board and City Council;
- Trail development, reducing deferred maintenance for aging infrastructure, enhancing Community Outreach and Education programming;
- Increased or enhanced trail maintenance, natural resource management, habitat restoration, and general day to day maintenance practices;
- Land management best practices to assist with wildfire mitigation such as regenerative agriculture, mechanical controls, and invasive species control; and

WHEREAS, if the ballot issue set forth herein is approved by the City's voters, the City will establish separate open space and parks funds, into which the revenues will be deposited until spent for the voter-approved uses; and

WHEREAS, the City Council finds that an emergency exists because, due to the

coordinated election deadlines set forth in the Intergovernmental Agreement between the City and Boulder County, the City must certify the ballot content for the November 7, 2023 election by no later than September 8, 2023.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

A. Subsection A of Section 3.20.200 of the Louisville Municipal Code, regarding the sales tax levy, is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 3.20.200. Levy of tax; rate.

A. There is hereby levied, and there shall be collected and paid, a sales tax equal to 3.15 percent (3.15%) of the purchase price of tangible personal property at retail or the furnishing of services, except that:

1. For the ten-year period beginning on January 1, 2024 ~~2014~~, there is hereby levied, and there shall be collected and paid, an additional sales tax of three-eighths of one percent (0.375%) of the purchase price of tangible personal property at retail or the furnishing of services, as authorized at the November 7, 2023 ~~November 6, 2012~~ election, and
2. For the ten-year period beginning on January 1, 2019, there is hereby levied, and there shall be collected and paid, an additional sales tax of one-eighth of one percent (0.125%) of the purchase price of tangible personal property at retail or the furnishing of services, as authorized at the November 7, 2017 election, and
3. For the ten-year period beginning on January 1, 2024, there is hereby levied, and there shall be collected and paid, an additional sales tax of one-eighths of one percent (0.125%) of the purchase price of tangible personal property at retail or the furnishing of services, as authorized at the November 7, 2023 election.

B. Section 3.20.300 of the Louisville Municipal Code, regarding the use tax levy, is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 3.20.300. Levy of tax; rate.

There is hereby levied, and there shall be collected and paid, a tax upon the privilege of using, storing, distributing, or otherwise consuming in

the City any article of tangible personal property or services purchased, leased or rented from sources outside the City, on which a sales tax has not been paid and as specified in Section 3.20.305, and upon rental of storage space within the City ("use tax"). The amount of the use tax shall be 3.65 percent of the purchase price thereof, except that for the ten-year period beginning January 1, 2024, there is hereby levied, and there shall be collected and paid, an additional use tax of one-eighths of one percent (0.125%) collected and paid as set forth in this Section, as authorized at the November 7, 2023 election.

C. Subsection D of Section 3.20.600 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 3.20.600. Sales tax—Capital improvement fund.

D. Revenues from the temporary ~~$\frac{3}{8}$~~ 0.375 percent sales tax imposed for the ten-year period beginning on January 1, 2024 ~~2014~~ shall be used exclusively for the following purposes:

1. one-half of such revenues shall be used for acquisition of land in and around the city for open space buffer zones, trails, wildlife habitats, wetlands preservation and future parks; and for the development, construction, operation and maintenance of such open space zones, trails, wildlife habitats, and wetlands and parks.
2. one-half of such revenues shall be used for acquisition of land in and around the city for parks; and for the development, construction, operation and maintenance of parks.

D. Section 3.20.600 of the Louisville Municipal Code is hereby amended by the addition of a new subsection F to read as follows:

Sec. 3.20.600. Sales tax—Capital improvement fund.

F. Revenues from the 0.125 percent sales tax imposed for the ten-year period beginning January 1, 2024, approved at the November 7, 2023 election, shall be used exclusively for open space acquisition, restoration, preservation, protection, and maintenance, and mitigation of wildfires in open space areas.

E. Section 3.20.610 of the Louisville Municipal Code is hereby amended by the addition of a new subsection C.5 to read as follows:

Sec. 3.20.610 Use tax – Uses of specified revenues.

C.5. Revenues from the 0.125 percent use tax imposed for the ten-year period beginning on January 1, 2024, approved at the November 7, 2023 election, shall be used exclusively for open space acquisition, restoration, preservation, protection, and maintenance, and mitigation of wildfires in open space areas.

F. Section 3.20.610.E of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 3.20.610. Use tax – Uses of specified revenues.

E. Except for those revenues subject to subsection A, B, and C ~~and C.5~~ of this section, the City Council shall have the authority by resolution to waive or reduce the amount of the use tax otherwise due and payable to the City pursuant to Section 3.20.300 and to enter into agreements for the sharing or crediting of revenues from the tax imposed by said 3.20.300, if City Council determines that such waiver, reduction, sharing or credit is in furtherance of a public purpose and the best interests of the City.

Section 2. Total City sales and use tax revenues are estimated to increase by up to \$1,500,000 in the first full year in which the additional sales and use tax provided for in this ordinance is in effect. However, the revenues from said sales and use tax may be collected and spent, regardless of whether said revenues, in any year after the first full year in which said sales and use tax is in effect, exceed the estimated dollar amount stated above, and without any other limitation or condition, and without limiting the collection or spending of any other revenues or funds by the City of Louisville, under Article X, Section 20 of the Colorado Constitution or any other law.

Section 3. This ordinance shall not take effect unless and until a majority of the registered voters voting at the special municipal election on November 7, 2023 vote to approve the ballot question set forth below in the following form:

SHALL THE CITY OF LOUISVILLE TAXES BE INCREASED \$1,500,000 IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS MAY BE GENERATED ANNUALLY THEREAFTER, BEGINNING JANUARY 1, 2024 AND AUTOMATICALLY EXPIRING AFTER TEN YEARS, BY THE IMPOSITION OF AN ADDITIONAL .125 PERCENT SALES AND USE TAX TO BE USED SOLELY TO ACQUIRE, RESTORE, PRESERVE, PROTECT, AND MAINTAIN OPEN SPACE AND MITIGATE WILDFIRE RISKS WITHIN OPEN SPACE AREAS; AND SHALL THE CURRENT .375 PERCENT SALES TAX APPROVED BY THE VOTERS IN 2012 FOR OPEN SPACE AND PARKS PURPOSES BE EXTENDED FROM ITS CURRENT EXPIRATION DATE OF DECEMBER 31, 2023

FOR AN ADDITIONAL TEN YEARS, TO BE EQUALLY DIVIDED BETWEEN SEPARATE PARKS AND OPEN SPACE FUNDS, WITH THE OPEN SPACE FUNDS USED FOR THE PURPOSES DESCRIBED ABOVE AND PARKS FUNDS USED SOLELY TO ACQUIRE, IMPROVE, AND MAINTAIN PARKS; AND SHALL SUCH ALL SALES AND USE TAX REVENUES BE COLLECTED, RETAINED, AND SPENT AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES _____
NO _____

Section 4. The election shall be conducted as a part of a coordinated mail ballot election. Pursuant to C.R.S. Section 31-10-102.7, the City will utilize the requirements and procedures of the Uniform Election Code of 1992, articles 1 to 13 of title 1, C.R.S., as amended, in lieu of the Colorado Municipal Code of 1965, article 10 of title 31, C.R.S., as amended. The City Clerk is hereby appointed as the designated election official of the City for purposes of performing acts required or permitted by law in connection with the election.

Section 5. Because the election will be held as part of the coordinated mail ballot election, the City Council hereby determines that the County Clerk shall conduct the election on behalf of the City, to the extent and as provided in the Uniform Election Code, as amended, and the City Clerk is hereby appointed as the designated election official for the City. The officers of the City are hereby authorized to enter into one or more intergovernmental agreements with the County Clerk pursuant to Section 1-7-116 and/or Article 7.5, Title 1, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the election is hereby ratified, approved and confirmed.

Section 6. The provisions of this ordinance relating to the amendment of the Municipal Code of the City of Louisville shall take effect following passage and approval thereof as provided in Section 3, on January 1, 2024.

Section 7. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council and the registered voters of the City hereby declare that they would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 8. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 9. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 10. Ordinance No. 1854, Series 2023, is hereby repealed.

Section 11. The City Council herewith finds, determines and declares that this ordinance is genuinely and urgently necessary for the immediate preservation of the public health, safety, and welfare because the City's Intergovernmental Agreement with Boulder County for conduct of the November 7, 2023 coordinated election requires the City to certify ballot content by no later than September 8, 2023.

INTRODUCED, READ, PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE BY TWO-THIRDS OF THE ENTIRE CITY COUNCIL, AND ORDERED PUBLISHED this 5th day of September, 2023.

Dennis Maloney, Mayor

ATTEST:
Meredyth Muth, City Clerk

APPROVED AS TO FORM:
Kelly PC
City Attorney